

Application No.: 09/874,717
Amendment Dated: March 6, 2006
Reply to Office Action of: January 5, 2006

REMARKS

By the foregoing amendment, claims 1, 10, 16, 22 and 26 have been amended. Claims 1-29 are pending in the application. In view of the foregoing amendments and the remarks urged here, Applicants respectfully request that the Examiner enter the amendments and remarks as it places the application in condition for allowance.

Objection to the Specification

The Examiner has objected to the specification as containing improper embedded hypertext links as defined in MPEP § 608.01.

In the interests of expediting the prosecution of this application, Applicants have amended the specification in so far as to remove the "http://" headers. However, Applicants respectfully submit that web site references are not embedded hypertext links as prohibited by MPEP § 608.01(p). MPEP § 608.01 specifically prohibits browser executable code which may link to commercial websites in the final patent and therefore may violate USPTO's requirement that the USPTO not link to any commercial sites. The simple insertion of a valid web site address without any header or tag information is not improper as defined in MPEP § 608.01.

Nor are the Applicants attempting an improper incorporation by reference. The contents of the web site references are not necessary for Applicants' compliance with either § 101 or § 112 requirements. They are merely exemplary prior art solutions discussed in the background of the invention.

Applicants respectfully request reconsideration and withdrawal of the specification objections.

35 U.S.C. §103 Rejections

The Examiner has rejected claims 1-4, 6-12, 14-18, 20-24, 26 and 28-29 under 35 U.S.C. § 103(a) as being unpatentable over "Application Usage Hack 7.0" Benc Software Production ("Benc") in view of U.S. Patent Application Publication No. 20010054026 to Choate ("Choate"). The Examiner has rejected claims 25 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Benc in view of Choate and further in view of U.S. Patent No. 6,381,632 to Lowell

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("Lowell"). The Examiner has rejected claims 5, 13 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Benc in view of Choate and further in view of "Watch-ya! Viewer Version 2.11" ("Watch-ya").

Claims 1-4, 6-12, 14-18, 20-24, 26 and 28-29:

Applicants have amended claims 1, 10, 16, 22 and 26 to more particularly point out and distinctly claim the subject matter regarded as the invention. In particular, claim 1 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs." Similarly claim 10 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said personal digital assistant is powered by batteries; measurements denoting a duration of usage when said personal digital assistant is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said personal digital assistant occurs." Claim 16 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs." Similarly claim 22 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs." Claim 26 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs."

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The present invention, as recited in independent claims 1, 10, 16, 22 and 26, is directed to a method for automatically monitoring usage statistics of various application programs which may reside in a portable electronic device such as a PDA (personal digital assistant). In one embodiment, as recited in claim 1, the method comprises gathering usage statistics for each of the application programs where the usage statistics include (1) measurements denoting a duration of usage when the electronic device is powered by batteries, (2) measurements denoting a duration of usage when the electronic device is powered by an external source of power, and (3) measurements denoting a duration of usage when an auto-shutoff of the electronic device occurs. The usage statistics are saved in the electronic device and are transmitted to a server when the electronic device is, for example, synced to a desktop computer.

One of the problems with previous usage statistical programs has been that the unique abilities of the portable electronic device can sometimes skew usage statistics. For instance, for saving battery power, most portable electronic devices have auto-shutoff capability. However, this can skew application program usage statistics since a user may fail to exit the application program prior to the portable electronic device shutting off. In another instance, the portable electronic device may constantly stay on if it is powered by an external power source (i.e. AC power supply), so the program usage statistics may again be skewed. The invention overcomes the disadvantages associated with previous usage statistical application programs by compiling usage statistics which are more varied and thorough than the previous solutions. For instance, in one embodiment, the usage statistics may include statistics denoting a duration of usage which is a predetermined fraction of the time from the last user interaction to auto-shutoff of the portable electronic device.

By contrast, the Examiner's base reference, Benc, is directed to merely tracking raw usage statistics of application program usage. Benc does not teach or suggest that the usage statistics take into account the portable electronic device's auto-shutoff capability or the portable electronic device's use of external power supply. Indeed, Benc shows a screen shot of the application program where only a raw time reflecting usage is displayed.

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The shortcomings of the base reference are not overcome by Choate. Choate is directed to an application program metering method. However, there is no teaching or suggestion in Choate of a way to meter application programs which reside and execute on a portable electronic device. It is unclear how a person of ordinary skill in the art would combine the teachings of Benc and Choate since Choate clearly is not directed to application programs operating on a portable electronic device.

Therefore, Applicants respectfully submit that a combination of Benc and Choate does not teach or suggest every claimed feature of the invention. The prior art reference (or references) must teach or suggest all of the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Since a prima facie case of obviousness has not been set forth, Applicants respectfully submit that amended independent claims 1, 10, 16, 22 and 26 are allowable over the cited references. Claims 2-4, 6-9, 11-12, 14-15, 17-18, 20-21, 23-24 and 28-29, by their dependency on claims 1, 10, 16, 22 and 26 respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

Claims 25 and 27:

Applicants have amended claims 22 and 26 to more particularly point out and distinctly claim the subject matter regarded as the invention. Claim 22 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs." Claim 26 has been amended to recite that the usage statistics include "measurements denoting a duration of usage when said electronic device is powered by batteries; measurements denoting a duration of usage when said electronic device is powered by an external source of power; and measurements denoting a duration of usage when an auto-shutoff of said electronic device occurs."

The present invention, as recited in independent claims 22 and 26, is directed to a method for automatically monitoring usage statistics of various application programs which may reside in a portable electronic device such as a PDA (personal digital assistant). In

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one embodiment, as recited in claim 22, the method comprises gathering usage statistics for each of the application programs where the usage statistics include (1) measurements denoting a duration of usage when the electronic device is powered by batteries, (2) measurements denoting a duration of usage when the electronic device is powered by an external source of power, and (3) measurements denoting a duration of usage when an auto-shutoff of the electronic device occurs. The usage statistics are saved in the electronic device and are transmitted to a server when the electronic device is, for example, synced to a desktop computer.

As stated above, one of the problems with previous usage statistical programs has been that the unique abilities of the portable electronic device can sometimes skew usage statistics. For instance, for saving battery power, most portable electronic devices have auto-shutoff capability. However, this can skew application program usage statistics since a user may fail to exit the application program prior to the portable electronic device shutting off. In another instance, the portable electronic device may constantly stay on if it is powered by an external power source (i.e. AC power supply), so the program usage statistics may again be skewed. The invention overcomes the disadvantages associated with previous usage statistical application programs by compiling usage statistics which are more varied and thorough than the previous solutions. For instance, in one embodiment, the usage statistics may include statistics denoting a duration of usage which is a predetermined fraction of the time from the last user interaction to auto-shutoff of the portable electronic device.

By contrast, the Examiner's base reference, Benc, is directed to merely tracking raw usage statistics of application program usage. Benc does not teach or suggest that the usage statistics take into account the portable electronic device's auto-shutoff capability or the portable electronic device's use of external power supply. Indeed, Benc shows a screen shot of the application program where only a raw time reflecting usage is displayed.

The shortcomings of the base reference are not overcome by Choate or Lowell. Choate is directed to an application program metering method. However, there is no teaching or suggestion in Choate of a way to meter application programs which reside and execute on a portable electronic device. Lowell is directed to measuring the data traffic usage between nodes on a network. It is unclear how a person of ordinary skill in the art

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would combine the teachings of Benc, Choate and Lowell since Choate and Lowell clearly are not directed to application programs operating on a portable electronic device.

Therefore, Applicants respectfully submit that a combination of Benc, Choate and Lowell does not teach or suggest every claimed feature of the invention. The prior art reference (or references) must teach or suggest all of the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Since a *prima facie* case of obviousness has not been set forth, Applicants respectfully submit that amended independent claims 22 and 26 are allowable over the cited references. Claims 25 and 27, by their dependency on claims 22 and 26 respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

Claims 5, 13 and 19:

Applicants have amended claims 1, 10 and 16 to more to more particularly point out and distinctly claim the subject matter regarded as the invention. The present invention, as recited in independent claims 1, 10 and 16, is directed to a method for automatically monitoring usage statistics of various application programs which may reside in a portable electronic device such as a PDA (personal digital assistant). In one embodiment, as recited in claim 22, the method comprises gathering usage statistics for each of the application programs where the usage statistics include (1) measurements denoting a duration of usage when the electronic device is powered by batteries, (2) measurements denoting a duration of usage when the electronic device is powered by an external source of power, and (3) measurements denoting a duration of usage when an auto-shutoff of the electronic device occurs. The usage statistics are saved in the electronic device and are transmitted to a server when the electronic device is, for example, synced to a desktop computer.

As stated above, one of the problems with previous usage statistical programs has been that the unique abilities of the portable electronic device can sometimes skew usage statistics. For instance, for saving battery power, most portable electronic devices have auto-shutoff capability. However, this can skew application program usage statistics since a user may fail to exit the application program prior to the portable electronic device shutting off. In another instance, the portable electronic device may constantly stay on if it is powered by an external

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power source (i.e. AC power supply), so the program usage statistics may again be skewed. The invention overcomes the disadvantages associated with previous usage statistical application programs by compiling usage statistics which are more varied and thorough than the previous solutions. For instance, in one embodiment, the usage statistics may include statistics denoting a duration of usage which is a predetermined fraction of the time from the last user interaction to auto-shutoff of the portable electronic device.

By contrast, the Examiner's base reference, Benc, is directed to merely tracking raw usage statistics of application program usage. Benc does not teach or suggest that the usage statistics take into account the portable electronic device's auto-shutoff capability or the portable electronic device's use of external power supply. Indeed, Benc shows a screen shot of the application program where only a raw time reflecting usage is displayed.

The shortcomings of the base reference are not overcome by Choate or Watch-ya. Choate is directed to an application program metering method. However, there is no teaching or suggestion in Choate of a way to meter application programs which reside and execute on a portable electronic device. Watch-ya is directed to measuring the raw usage statistics of application program usage as well as the battery usage. Like Benc, Watch-ya does not teach or suggest that the usage statistics take into account the portable electronic device's auto-shutoff capability or the portable electronic device's use of external power supply. Additionally, Watch-ya teaches measuring the battery usage of an application program rather than the duration of time when the application program is powered by batteries.

Therefore, Applicants respectfully submit that a combination of Benc, Choate and Watch-ya does not teach or suggest every claimed feature of the invention. The prior art reference (or references) must teach or suggest all of the claim limitations. *In re Vaech*, 947 F.2d 488 (Fed. Cir. 1991). Since a prima facie case of obviousness has not been set forth, Applicants respectfully submit that amended independent claims 1, 10 and 16 are allowable over the cited references. Claims 5, 13 and 19, by their dependency on claims 1, 10 and 16 respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

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Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner enter the Amendment after Final and reconsider all presently outstanding rejections. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

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